IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.420 OF 2005
IN
NOTICE OF MOTION NO.1244 OF 2004
IN
SUIT NO.1259 OF 2004

M/s.Kukreja Construction Company — Appellants
vs.
Ravindra Harishankar Mantri & ors. — Respondents

Mr.Virag Tulzapurkar with Ms.Alpana Ghone i/b. M/s.DSK
Legal for the appellants.

Mr.Milind More, A.G.P. for the respondent no.8.

**CORAM : R. M. LODHA &**
**J.P. DEVADHAR,JJ**.

**DATED : 6th June 2005**

**P.C.**

Heard Mr.Virag Tulzapurkar, the learned counsel for the appellants.

2. The appeal is directed against the order dated 18th March 2005 passed by the learned motion Judge to the extent he declined interim reliefs in terms of prayers (a) and (b) of the notice of motion.

3. Having considered the case set up by the appellants (plaintiffs) in the suit and upon perusal of relevant document viz., agreement for sale dated 10th February 1997, we are satisfied that by refusal of the prayers

(a) and (b) of the notice of motion, it cannot be said that any loss much less irreparable loss shall be caused to the plaintiffs during the pendency of suit. We do not find any balance of convenience also in favour of the plaintiffs in so far as the grant of prayers (a) and (b) of the notice of motion is concerned. In case the plaintiffs succeed in this suit, appropriate order in relation to the part of the land that has been acquired may be passed by the Court.

4. However, we are informed by the learned A.G.P. that pursuant to the ad-interim order passed by the learned motion Judge on 14th June 2004, the defendant no.8 has deposited the sum of Rs.12,18,485/- with the Prothonotary & Senior Master of this Court. Though the plaintiffs have not made out a case for grant of interim relief in terms of prayer (b), in view of the fact that the amount of Rs.12,18,485/- being the balance compensation payable in respect of the reserved portion of the suit property has been deposited by the defendant no.8 and the fact that the said amount has already been invested in the fixed deposit for a period of 37 months as per the order dated 14th June 2004, we observe that the amount so deposited by the defendant no.8 may continue to remain deposited and invested as per the order dated 14th June 2004.

5. With the aforesaid observation, the appeal is dismissed in limine.

**(R.M. LODHA,J.)**

**(J.P. DEVADHAR,J.)**